IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1210 OF 2006.
WITH
CIVIL APPLICATION NO.1211 OF 2006
IN
SECOND APPEAL NO. 446 OF 1997.

Sukhdev Hari Porje. ... Applicant.
Versus.
Balkishan Bajiram Hullule & anr. ... Respondents.

Ms.B.P.Jakhade for the Applicant.

CORAM : ABHAY S.OKA, J.

DATED : 8th August, 2006.

P.C.:

1. Civil Application No.1210 of 2006 is filed by the Appellant No.2 in the Second Appeal for condonation of delay in applying for restoration of the Second Appeal which was dismissed for default. Civil Application No.1211 of 2006 is for restoration of the Second Appeal.

2. The Second Appeal was dismissed for default on 1st August 2003. In these two Applications, allegations have been made against the Advocate who appeared for the Appellant that he did not take steps for restoration of the Second Appeal which was dismissed for default. In paragraph 3 of the Application, a specific allegation has been made that no efforts have been made by the said Advocate for restoration of the Second Appeal. It is also alleged that the Appellants have lost faith in him and have decided to proceed against the said Advocate by filing a complaint with the Bar Council. Both the Applications are affirmed by the Appellant No.2 Shri Sukhadev Hari Porje.

3. When the papers of these Civil Applications were produced before me I noticed that the Advocate who originally appeared for the Appellant has already filed a Civil Application bearing No.1212 of 2006 for restoration of the Second Appeal. The said Application is filed on 24th February 2005. The said Application is also affirmed by the said Shri Sukhadev Hari Porje. The fact of filing of the earlier Application is not only suppressed in the present Applications but very unfair allegations have been made by the Applicant against the Advocate to the effect that no efforts have been taken by him for getting the Second Appeal restored. The Application No.1212 of 2006 is still pending.

4. Faced with this situation, the learned Advocate appearing for the Applicant seeks permission to withdraw these Applications. Accordingly the Applications are dismissed as withdrawn. It must be noted while permitting withdrawal of the Applications that the record indicates that the allegations made by the Applicant in these Applications against his earlier Advocate are incorrect.

5. Office is directed to place Civil Application No.1212 of 2006 on board on an appropriate date.

Judge.